

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 7, 2021

3:18 p.m.

**DRAFT**

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Ivy Spohnholz, Co-Chair  
Representative Calvin Schrage  
Representative Liz Snyder (via teleconference)  
Representative David Nelson  
Representative James Kaufman  
Representative Ken McCarty

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 85

"An Act relating to the Alaska Banking Code; relating to mutual savings banks; relating to interstate state banks and international banks; relating to the pledging of bank assets as collateral security to tribal organizations; relating to the pledging of bank assets for interest swap agreements; relating to state business licenses; relating to persons who make loans secured by interests in vessels or facilities; relating to liability for the release or threatened release of hazardous substances; relating to the Model Foreign Bank Loan Act; and providing for an effective date."

- HEARD & HELD

CONFIRMATION HEARING(S)

Board of Social Work Examiners

Mindy Swisher - Palmer

- HEARD AND HELD

Alcoholic Beverage Control Board

John Cox - Anchor Point

- HEARD AND HELD

Alaska Labor Relations Agency

Patty Burley - Soldotna

Johnny Dewitt - Juneau

Justin Mack - Anchorage

- HEARD AND HELD

Alaska State Board of Public Accountancy

Rachel Hanke - Fairbanks

Lance Johnson - Anchorage

Donald Vieira - Palmer

- HEARD AND HELD

Alaska Workers' Compensation Board

Michael Dennis - Anchorage

Anthony Ladd - Anchorage

Jason Motyka - Anchorage

Nancy Shaw - Anchorage

Robert Weel - Anchorage

Lake Williams - Fairbanks

- HEARD AND HELD

Board of Chiropractic Examiners

Tim Kanady - Anchorage

John Loyd - Anchorage

- HEARD AND HELD

Board of Massage Therapists

Kristin Tri - Eagle River

- HEARD AND HELD

Board of Nursing

Lena Lafferty - Anchorage

Wendy Monrad - Anchorage  
Michael Wilcher - North Pole

- HEARD AND HELD

Board of Pharmacy

Richard Holt - Anchorage

- HEARD AND HELD

Board of Veterinary Examiners

Dr. Denise Albert - Denali

- HEARD AND HELD

Occupational Safety & Health Review Board

John Stallone - Anchorage

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 85

SHORT TITLE: FINANCIAL INSTITUTIONS; LIABILITY

SPONSOR(s): REPRESENTATIVE(s) LEBON BY REQUEST

02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	L&C, FIN
04/07/21	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE BART LEBON

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, introduced HB 85.

JOSEPH BYRNES, Staff

Representative Bart LeBon

Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis on HB 85 on behalf of Representative LeBon, prime sponsor.

MICHAEL MARTIN, Chief Operating Officer and General Counsel

Northrim Bank

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions and testified in support of HB 85.

DAVID DURHAM, Executive Vice-President and Chief Credit Administrator

Mt. McKinley Bank

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 85.

TRACY RENO, Chief of Examinations

Division of Banking and Securities

Department of Commerce, Community, and Economic Development

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 85.

TIFFANY LARSON, Director

Division of Spill Prevention & Response

Department of Environmental Conservation

Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 85.

MINDY SWISHER, Appointee

Board of Social Work Examiners

Palmer, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Social Work Examiners.

JOHN COX, Appointee

Alcoholic Beverage Control Board

Anchor Point, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alcoholic Beverage Control Board.

PATTY BURLEY, Appointee

Alaska Labor Relations Agency

Soldotna, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Labor Relations Agency.

DENNY DEWITT, Appointee

Alaska Labor Relations Agency

Juneau, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Labor Relations Agency.

JUSTIN MACK, Appointee  
Alaska Labor Relations Agency  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Labor Relations Agency.

RACHEL HANKS, Appointee  
Alaska State Board of Public Accountancy  
Fairbanks, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska State Board of Public Accountancy.

LANCE JOHNSON, Appointee  
Alaska State Board of Public Accountancy  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska State Board of Public Accountancy.

DONALD VIEIRA, Appointee  
Alaska State Board of Public Accountancy  
Palmer, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska State Board of Public Accountancy.

MICHAEL DENNIS, Appointee  
Alaska Workers' Compensation Board  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

ANTHONY LADD, Appointee  
Alaska Workers' Compensation Board  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

JASON MOTYKA, Appointee  
Alaska Workers' Compensation Board  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

NANCY SHAW, Appointee  
Alaska Workers' Compensation Board  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

ROBERT WEEL, Appointee  
Alaska Workers' Compensation Board  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

LAKE WILLIAMS, Appointee  
Alaska Workers' Compensation Board  
Fairbanks, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Alaska Workers' Compensation Board.

DR. TIM KANADY, Appointee  
Board of Chiropractic Examiners  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Chiropractic Examiners.

JOHN LLOYD, Appointee  
Board of Chiropractic Examiners  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Chiropractic Examiners.

KRISTIN TRI, Appointee  
Board of Massage Therapists  
Eagle River, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Massage Therapists.

LENA LAFFERTY, Appointee  
Board of Nursing  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Nursing.

WENDY MONRAD, Appointee  
Board of Nursing  
Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Nursing.

MICHAEL WILCHER, Appointee  
Board of Nursing

North Pole, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Nursing.

RICHARD HOLT, Appointee

Board of Pharmacy

Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Pharmacy.

DR. DENISE ALBERT, Appointee

Board of Veterinary Examiners

Denali, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Veterinary Examiners.

JOHN STALLONE, Appointee

Occupational Safety & Health Review Board

Anchorage, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Occupational Safety & Health Review Board.

#### **ACTION NARRATIVE**

[3:18:32 PM](#)

**CO-CHAIR ZACK FIELDS** called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Fields, Spohnholz, Schrage, McCarty, Nelson, and Snyder (via teleconference) were present at the call to order. Representative Kaufman arrived as the meeting was in progress.

#### **HB 85-FINANCIAL INSTITUTIONS; LIABILITY**

[3:18:51 PM](#)

CO-CHAIR FIELDS announced that the first order of business would be HOUSE BILL NO. 85, "An Act relating to the Alaska Banking Code; relating to mutual savings banks; relating to interstate state banks and international banks; relating to the pledging of bank assets as collateral security to tribal organizations; relating to the pledging of bank assets for interest swap agreements; relating to state business licenses; relating to persons who make loans secured by interests in vessels or facilities; relating to liability for the release or threatened release of hazardous substances; relating to the Model Foreign Bank Loan Act; and providing for an effective date."

[3:19:18 PM](#)

REPRESENTATIVE BART LEBON, Alaska State Legislature, explained that during his 42-year banking career he worked for federally-chartered and state-chartered banks. He described observing an "unlevel playing field" between the large national banks and the smaller state banks. His goal with HB 85, he said, is to level the playing field and to establish parity within Alaska's banking community. He noted that the Alaska Bankers Association, comprising all seven banks in Alaska, supports the proposed legislation.

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JOSEPH BYRNES, Staff, Representative Bart LeBon, presented the sectional analysis on behalf of Representative LeBon, prime sponsor, which read as follows [original punctuation provided]:

Sec. 1. AS 06.05.005(a)

Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.

Sec. 2. AS 06.05.005

Prohibits the Department from placing a regulatory limitation on a credit card that a state bank issues to an officer of a state bank, the statutory authority for which is amended in Section 5 and the regulation (3 AAC 02.121) annulled in Section 24. Prohibits the Department from adopting regulations relating to the setting of time limits on the disposal of real and personal property, the statutory authority for which is amended in Section 6 and the regulation (3 AAC 02.135) annulled in Section 24.

Sec. 3. AS 06.05.050

Publication of reports: Adds the option for posting notices of publication of bank reports on a bank's internet website vs. physical posting in the bank lobby.

Sec. 4. AS 06.05.166(c)

Defines the timeframe - not later than 15 days - for which a bank must notify the Department after an emergency nonopening or closing of the bank.



Sec. 5. AS 06.05.210(a)

Increases the amount a director or executive officer of a state bank may borrow to \$500,000 (from \$100K or \$250K for a primary residence).

Sec. 6. AS 06.05.245

Disposition of property not needed in the conduct of a banking business: Removes the Department's authority to set a time limit on the disposal of real and personal property. Instead, the carrying value and write-down will be dictated by Generally Accepted Accounting Principles (GAAP).

Sec. 7. AS 06.05.260

Allows a state bank to pledge bank assets as collateral security to secure funds deposited by consortiums of federally recognized tribes.

Sec. 8. AS 06.05.260

Adds a new subsection to replace the Division of Banking's Parity Orders 12-B (3- 6) regarding the pledging of assets for interest rate swaps. Adds a new subsection to define: • "federally recognized tribe" as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994; and • "interest rate swap agreement" as a stream of future interest payments that are exchanged for another stream of future interest payments.

Sec. 9. AS 06.05.355(a)

Requires all banks to become a member of the FDIC as a condition for receiving a Certificate of Authority; Intended to maintain trust and level the playing field for the banking industry.

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CO-CHAIR FIELDS commented that the change detailed in Section 9 would be positive for consumers.

REPRESENTATIVE LEBON agreed, and noted that every depositor wants Federal Deposit Insurance Corporation (FDIC) insurance. He said that this section would formalize the requirement for what is currently standard practice.

[3:26:22 PM](#)

CO-CHAIR SPOHNHOLZ, referring to Section 6, said that she doesn't see anything specific that references using GAAP.

REPRESENTATIVE LEBON explained the concept of "write-down" using the example of a bank foreclosing on a piece of property. The bank would hold it as "other real estate owned" and assign a value to the asset. The current statute specifies that the write-down practice decreases the value of the asset by 20 percent per year for five years, until the calculated value of the asset reaches zero, regardless of what it's actual value might be. He noted that this practice is required whether or not the actual value of the asset increases. Section 6, he said, would allow valuation of the asset according to GAAP, with the holding period reflecting the value of the asset.

CO-CHAIR SPOHNHOLZ asked him to clarify what requires a bank to adhere to GAAP.

REPRESENTATIVE LEBON said that GAAP defines the accepted accounting principles and provides a standard basis for valuation of an asset.

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MR. BYRNES resumed his presentation of the sectional analysis, which read as follows [original punctuation provided]:

Sec. 10. AS 06.05.399

Changes of location; branch banks. Provides Alaska chartered banks parity with credit unions when establishing a bank branch. Banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215. The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260. [Same as section 19 for Mutual Banks]

Sec. 11. AS 06.05.438(a)

Reduces the number of required meetings of a bank's board from 10 to 4 per calendar year.

Sec. 12. AS 06.05.555(a)

Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.

Sec. 13. AS 06.05.990(4)

Removes "remote service unit" (ATM, etc.) from the definition of "branch bank" and defines "remote service unit" directly under this section.

Sec. 14. AS 06.15.180

Allowing mutual banks to have similar borrowing options as state banks.

Sec. 15. AS 06.15.190

Expands the deposits that mutual banks can accept.

Sec. 16. AS 06.15.220

Allows trustees to delegate their authority to approve interest on deposits.

Sec. 17. AS 06.15.240

Provides mutual banks with the same investment opportunities as state banks under AS 06.05.270.

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CO-CHAIR FIELDS asked Mr. Byrnes to explain the difference between a mutual bank and another type of bank.

REPRESENTATIVE LEBON explained that a mutual bank is a non-stock institution. He compared Denali State Bank, a stock-owned institution, with Mt. McKinley Bank, a mutual institution. He said that the depositors at Mt. McKinley Bank are the "owners" of the bank, whereas at Denali State Bank the owners are traditional shareholders.

CO-CHAIR FIELDS asked whether it would fair to say that, under HB 85, the consumer protections would be the same regardless of ownership structure.

REPRESENTATIVE LEBON replied, "Yes, absolutely."

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MR. BYRNES resumed his presentation of the sectional analysis, which read as follows [original punctuation provided]:

Sec. 18. AS 06.15.250

Providing mutual banks with the same lending opportunities as state banks.

Sec. 19. AS 06.15.290

Changes of location; branch banks. Provides mutual banks parity with state banks and credit unions when establishing a bank branch. Alaska chartered banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215. The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260. [Same as section 10 for state banks]

Sec. 20. AS 43.70.105(a)

Exempts depository institutions (banks and credit unions) from the requirement to obtain business licenses for all headquarter and branch locations. Currently, state-chartered institutions receive a Certificate of Authority through the Division of Banking and Securities. Until each institution receives this certificate, they may not transact business. This change would eliminate duplicate licensing, thus reducing regulatory burden.

Sec. 21. AS 46.03.822(a)

Adds reference to the new language in section 22.

Sec. 22. AS 46.03.822

Conforms state law to the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) standard for lender liability. CERCLA Section 101(20) contains a secured creditor exemption that eliminates owner or operator liability for lenders who hold ownership in a CERCLA facility primarily to protect their security interest in that facility, provided they do not "participate in the management of the facility." Generally, participation in the management applies if a bank exercises decision-making control over a property's environmental compliance, or exercises control at a level similar to a manager of the facility or property. Participation in management does not include actions such as conducting property inspections, requiring a response action to address contamination, providing financial advice or renegotiating or restructuring the terms of the security interest. The secured creditor exemption also provides that foreclosure on a property does not result in liability for a bank, provided the bank takes "reasonable steps" to divest itself of the property "at the earliest practicable, commercially reasonable time, on commercially reasonable terms."

Generally, a bank can maintain business activities and close down operations at a property as long as the property is listed for sale shortly after the foreclosure date or at the earliest practicable, commercially reasonable time.

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CO-CHAIR FIELDS asked for some examples of CERCLA properties.

REPRESENTATIVE LEBON responded that both federally-chartered and state-chartered banks must align with the environmental laws under which banks must operate. He explained that it's very rare for a bank to engage in the operation of a business on which it foreclosed. For example, he said, if a bank foreclosed on a gas station, the bank would not then continue operation of the gas station, taking on the associated management and environmental risk.

CO-CHAIR FIELDS clarified his original question by asking, "What are some other properties that might not be controlled by a bank, but which could potentially be foreclosed on, would be affected by this section?"

REPRESENTATIVE LEBON responded that any property that a bank acquires through a foreclosure action must be evaluated for environmental risk. A gas station, dry cleaners, or even a residential property is evaluated, he said, and a bank practices due diligence by conducting, for example, a soil test to determine any possible environmental contamination. He said that once a property is owned by a bank, the bank has an obligation to know of any associated environmental risk, because the bank will eventually sell the property to a new owner.

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MR. BYRNES resumed his presentation of the sectional analysis, which read as follows [original punctuation provided]:

Sec. 23. Repealed Sections

- Repeals AS 06.05.265 Liability of directors for certain loans. Overbroad and unnecessary.
- Repeals AS 06.10.010-050 Model Foreign Bank Loan Act. The Act exempts out-of-state banks from Alaska taxation for certain business types and became

obsolete in 1984 due to other tax measures. The Act is an unnecessary administrative burden.

- Repeals AS 06.15.150, 160 & 170 Surplus requirements, additions and limitations. Repealing these statutes would provide parity and allow a mutual savings bank to follow AS 06.05.305 for capital requirements.
- Repeals AS 06.15.230 Withdrawal of Deposits: Language no longer relevant after deregulation of Thrifts and Savings and Loans.

#### Sec. 24. Annulled Regulations

- Annuls 3 AAC 02.121 Credit cards for officers: Removes the regulation limiting uncollateralized credit card balances up to \$10,000 for an officer of a state bank. See Sections 2 and 5.
- Annuls 3 AAC 02.135 Disposition of property not needed for banking business. The carrying value and write-down of property will instead be dictated by Generally Accepted Accounting Principles (GAAP). See Sections 2 and 6.

#### Sec. 25. Applicability

Uncodified law for sections 3, 4, 6, 9, 10, 12, 16, 18, and 19.

Cites definition locations for "branch bank", "department", "international bank", "interstate state bank", "mutual bank" and "state bank".

#### Sec. 26. Transition

Provides a transition period relating to sections 1, 10, 12, and 19; provides the Department time to promulgate regulations for changes of bank locations and establishing branch banks.

#### Sec. 27. Delayed Effective Date

Sets a delayed effective date for sections 1, 10, 12, and 19 to provide the Department time to promulgate regulations for changes of bank locations and establishing branch banks.

#### Sec. 28. Immediate Effective Date

Sets an immediate effective date for all sections except for sections 1, 10, 12, and 19, relating to changes of bank locations and establishing branch banks.

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CO-CHAIR FIELDS broached a discussion about the best regulatory structure for environmental hazards, noting that the preference would be the maximum remediation economically possible, while not making any remediation laws that could inhibit development.

REPRESENTATIVE LEBON noted that Mr. Martin would be able to give insight into that issue.

3:40:40 PM

MICHAEL MARTIN, Chief Operating Officer (COO) and General Counsel, Northrim Bank, informed the committee that he is also the president of the Alaska Bankers Association. He said that Northrim Bank is a state-chartered bank serving the banking needs of approximately 90 percent of Alaska's population. The Alaska Bankers Association, he said, represents the seven banks operating in Alaska: state-chartered Denali State Bank, Mr. McKinley Bank, 1st Bank of Ketchikan, and Northrim Bank, as well as KeyBank, Wells Fargo, and First National Bank Alaska, which are the national banks chartered by the Office of the Comptroller of the Currency. He described members of the Alaska Bankers Association as job creators that build Alaska's economy through credit to businesses and families, noting that the banks lent over \$1.4 billion in federal paycheck protection program (PPP) money. He stated that all seven banks in Alaska support HB 85, and that the Alaska Bankers Association, along with the four state-chartered banks, have submitted letters of support, which are included in the committee packet.

MR. MARTIN said that the Alaska Bankers Association has worked in concert with the Division of Banking and Securities at the Department of Commerce, Community, and Economic Development (DCCED) on the proposed legislation, which, he said, would provide meaningful updates to the banking code. He said that HB 85 is essential to: better serve bank customers in Alaska; expand banking products and services throughout the state; keep state-chartered banks competitive with other finance organizations; create parity in the laws and regulations under which banking institutions must operate; keep pace with technological advances in banking; enable efficiency of

operations; ensure safety and soundness of banks; and protect businesses and consumers in Alaska.

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DAVID DURHAM, Executive Vice-President and Chief Credit Administrator, Mt. McKinley Bank, noted that he is also the secretary-treasurer of the Alaska Bankers Association. He said that Mt. McKinley Bank is a mutual bank owned by its depositors, which gives it special focus on the community in the Fairbanks North Star Borough. He said that profits are held by the bank to benefit depositors through lower deposit rates and loan interest rates. He stated Mt. McKinley Bank's "strong support" for HB 85, especially the sections pertaining to mutual banks. He said that since banking regulations in Alaska have not been updated in some time, the deregulation of national banks by the OCC have granted those banks increasingly broad powers which have served to hinder the ability of state-chartered banks to serve their customers. He offered the belief that HB 85 would allow Mt. McKinley Bank to remain competitive and would establish parity with the other banks.

MR. DURHAM explained CERCLA regulations by recalling when Mt. McKinley Bank was preparing to foreclose on a gas station in Delta Junction, and the bank was advised by its attorneys to not touch the title due to environmental actions on the property. He said the property had gone through remediation but, acting on legal advice, the bank chose to not foreclose on the property, instead finding someone to bid on the property at auction and take title, thereby causing a substantial loss to the bank. He said, "We had always been under the impression that the federal law would speak if state law was silent." That was not the case, he said, so the proposed legislation would seek to have CERCLA protections for those who make investments in Alaskan communities.

[3:48:45 PM](#)

TRACY RENO, Chief of Examinations, Division of Banking and Securities, Department of Commerce, Community, and Economic Development, said that the Division of Banking and Securities serves as the primary regulator of the four state-chartered banks in Alaska, which follow the now-outdated Alaska banking statutes. The federally-chartered banks, she said, have the advantage of the broader powers from updated federal laws, thereby creating disparity between the two banking systems. She noted the collaborative effort between the Alaska Bankers



Association and the Division of Banking and Securities to bridge the gap between state and federal banking laws. She said, "HB 85 modernizes and streamlines Alaska's banking law to bring parity between the state and national banks and level the playing field." She said the proposed legislation would help state banks be competitive with modern best practices and the evolution of financial services. She said that while the administration has not yet taken a position on the proposed legislation, the provisions align with the governor's priorities by reducing the regulatory burden and modernizing Alaska laws. She said that the administration is planning to support HB 85 after incorporation of the proposed changes regarding the concerns of the Department of Environmental Conservation (DEC).

[3:50:25 PM](#)

REPRESENTATIVE SNYDER asked Representative LeBon for further explanation of the national guidelines and how HB 85 would help achieve parity.

REPRESENTATIVE LEBON invited one of the invited experts to participate in the response.

[3:51:54 PM](#)

MR. MARTIN, in addressing Representative Snyder's question, referred to Representative LeBon's earlier reference to the category of "other real estate owned (OREO)," which is added to a bank's balance sheet when there is a foreclosure and a general obligation to sell the property. He said that current statute requires mutual banks to practice a layered write-down of the asset which, he supposed, was originally intended to ensure that banks don't hold assets. The provision is not required of national or state banks, he said, which follow GAAP in asset valuation.

[3:53:40 PM](#)

REPRESENTATIVE SNYDER clarified that she would like a summary of "these specific things that we're finding parity with." She asked whether Sections 21 and 22 are necessarily limited to CERCLA, otherwise known as Superfund, or whether those sections could apply to other environmentally-contaminated sites not designated as Superfund sites.

REPRESENTATIVE LEBON deferred to one of the invited testifiers.

[3:54:56 PM](#)

MR. DURHAM explained that the site would not have to be designated Superfund, it could simply be a property that has undergone a state environment action. He said that the provisions under HB 85 would allow banks to market the properties in question without assuming the obligation and liability for environmental remediation.

[3:55:32 PM](#)

MR. MARTIN interjected with the comment that there is a general misunderstanding of how the current statutes work. When a borrower provides a piece of real estate as collateral, he said, the bank does an environmental assessment of the property to verify the value of the collateral, which could be impacted by environmental damage. The general premise under HB 85 is that if a financial institution is taking a piece of real estate as collateral for a loan, there would be no liability unless the bank engages in operation of the business. The general notion, he said, is that everyone on the chain of title is responsible for cleanup of a contaminated property. It's possible for a property to be either devalued or, if the cost of remediation is greater than what the property could be sold for, to have no monetary value.

[3:58:01 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Reno what areas the Division of Banking and Securities is working on with the sponsor of HB 85.

MS. RENO clarified that the division is satisfied with the language of the proposed legislation and is not working with the sponsor. She said that in her earlier reference to Sections 21 and 22 she intended to convey that the sponsor is working on language with the Alaska Bankers Association.

[3:59:04 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Larson for information on the issue on which DEC is working with the sponsor.

[3:59:12 PM](#)

TIFFANY LARSON, Director, Division of Spill Prevention & Response, Department of Environmental Conservation, said that the Alaska Bankers Association wants to include CERCLA language

in the proposed legislation. She expressed appreciation for the Alaska Bankers Association's openness about DEC's concerns regarding how HB 85 and CERCLA would work together.

CO-CHAIR FIELDS asked for an estimated timeframe for arriving at a consensus.

REPRESENTATIVE LEBON said that he doesn't have a timeframe.

[4:00:27 PM](#)

CO-CHAIR FIELDS thanked the sponsor and testifiers.

[HB 85 was held over.]

Board of Social Work Examiners

**Board of Social Work Examiners**

[4:00:52 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Board of Social Work Examiners.

[4:01:20 PM](#)

MINDY SWISHER, Appointee, Board of Social Work Examiners, said that she is a clinical social worker with the Office of Children's Services and has been sitting on the board for the past two years. She said that she enjoys serving Alaska as a board member, and that it's vital to protect the public by ensuring public protection and making sure social workers follow rules and regulations.

[4:01:48 PM](#)

CO-CHAIR SPOHNHOLZ pointed out that Ms. Swisher is also a member of the Resource Families Advisory Board and asked whether she is a foster parent.

MS. SWISHER replied that she is not a foster parent but did serve on that board for two years.

**Alcoholic Beverage Control Board**

[4:02:13 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointee to the Alcoholic Beverage Control Board.

[4:02:29 PM](#)

CO-CHAIR FIELDS noted that Mr. Cox already made his statement and asked how he sees his role as the public member on the board.

JOHN COX, Appointee, Alcoholic Beverage Control Board, said that he sees his role as providing safety for the citizens of Alaska and to protect the state from lawsuits.

CO-CHAIR FIELDS asked Mr. Cox what experience he has had working with Title 4 and the Alcohol & Marijuana Control Office.

MR. COX responded that he served as the commanding officer for the Veterans of Foreign Wars (VFW) in Anchor Point, managing the facility's alcohol sales and daily operation.

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CO-CHAIR SPOHNHOLZ said that while Mr. Cox said that he wanted to protect the state from lawsuits, the Alcoholic Beverage Control (ABC) Board's function is defined as "controlling the manufacture, barter, possession, and sale of alcohol beverages" in the state. She asked how he sees himself as protecting the state from lawsuits.

MR. COX said that one of the issues he's found that needs to be addressed is the resale of a license. He referred to AS 04.11.660, and said that it states that a license issued under Title 4 is a privilege, not a property right. He said that if a business no longer wishes to participate in alcoholic beverage sales, then the license should be returned back to the state; he expressed that this would protect the state and discourage "monopolizing" the licenses.

CO-CHAIR SPOHNHOLZ asked whether he is aware of any lawsuits being filed against the State of Alaska or the ABC Board.

MR. COX replied that he isn't aware of any such lawsuit, and that the board will be addressing "those issues" at the next meeting. He said, "There are people out there that'll file lawsuits at the drop of a hat, and we want to try and head it off before it gets out of control."

[4:05:49 PM](#)

REPRESENTATIVE MCCARTY said that he's talked to several restaurants and bars in his district and learned that selling wine and beer is different from selling liquor. He asked Mr. Cox whether he's referring to the full liquor license.

MR. COX replied, "Yes."

REPRESENTATIVE MCCARTY asked whether the concern is that someone would file a lawsuit against the state "because it's not fair."

MR. COX shared his perception that Title 4 has language specifically addressing preventing monopolies, and that currently the state is allowing "that procedure to happen."

[4:08:27 PM](#)

CO-CHAIR FIELDS noted that Mr. Cox owned a tobacco shop and asked him what steps he took to prevent sales to minors, and how it informs his view on preventing the sale of alcohol to minors.

MR. COX said that he no longer owns that business and noted that there are guidelines to be followed. He said, "At times, an employee can make a mistake, and it can be pretty harsh on the owner of the business. There were a couple times where I had a student, a minor, come in, and my employee accidentally made a mistake and sold tobacco to them." He said that he believes the employee, rather than the owner, should be fined in such a case.

CO-CHAIR FIELDS asked Mr. Cox whether he is still on the board of the VFW.

MR. COX replied that he resigned when he was approached to be on the ABC board.

CO-CHAIR FIELDS asked Mr. Cox whether he believes alcohol licenses should be treated differently than limited entry fishing permits.

MR. COX replied that the board is considering allowing charter boats to purchase liquor licenses for onboard sales.

[4:11:09 PM](#)

CO-CHAIR SPOHNHOLZ recalled Mr. Cox's earlier testimony during which he described having a problem with the after-market sale of liquor licenses, and she had asked whether he had any solution to the problem.

MR. COX opined that allowing businesses to purchase a liquor license and then sell it was a mistake in the first place. He proposed that when a business buys a liquor license from the state, it is then allowed to sell it to another business, but when the other business has purchased it, the understanding is that the business will no longer be able to sell it, but that the license would return to the state. The state would then hold a lottery for the license.

CO-CHAIR SPOHNHOLZ asked Mr. Cox whether it's his opinion that the people who invested in the liquor license would have to "eat it."

MR. COX said no, it is his opinion that the business who purchases the license should be able to sell it, but then new owners of the license should be required to return the license back to the state.

CO-CHAIR SPOHNHOLZ agreed that the issue of after-market liquor license sales has been contentious. She then asked Mr. Cox whether he's comfortable with maintaining the limited entry system for alcoholic beverage licenses.

MR. COX said, "I am right now, yes."

[4:14:46 PM](#)

REPRESENTATIVE KAUFMAN expressed interest in the topic and said he started imagining a world in which there was a finite amount of driver's licenses, each with a cash value.

MR. COX responded that on the Kenai Peninsula there are currently only 11 allotted package store licenses, while there are 17 licenses "out there." He added, "So that'll help correct that problem that ... the state currently has."

[4:16:20 PM](#)

REPRESENTATIVE SCHRAGE commented that if there was to be a condition put on a license, such as the ability to sell it once but then require its return to the state, the value of the license would be greatly diminished. He said that there would

be a party harmed either way, and requiring that the state buy the license back would be the only way to mitigate damages.

**Alaska Labor Relations Agency**

[4:17:06 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Alaska Labor Relations Agency.

[4:17:16 PM](#)

PATTY BURLEY, Appointee, Alaska Labor Relations Agency, said that she is from Bethel and is hoping to bring a bush perspective to the board.

[4:17:54 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Burley whether she would be holding the seat for management, labor, or general public.

Ms. BURLEY answered, "Management."

[4:18:09 PM](#)

DENNY DEWITT, Appointee, Alaska Labor Relations Agency, said that he has worked in government his entire career and specified that at the Department of Administration he worked in labor relations activities. He said that his background prepared him well for this agency.

[4:19:22 PM](#)

CO-CHAIR FIELDS asked Mr. Dewitt which category of seat he would be holding.

MR. DEWITT answered, "Public."

[4:19:39 PM](#)

CO-CHAIR SPOHNHOLZ asked Mr. Dewitt what he hopes to do on the board.

MR. DEWITT said that he hopes to be a good arbiter for those who have differing opinions on the issues.

[4:20:28 PM](#)

JUSTIN MACK, Appointee, Alaska Labor Relations Agency, said that he has been the captain of the Anchorage Fire Department and is currently the executive board member of the Anchorage Firefighters Union and vice president of Alaska Professional Fire Fighters Association. He said that he has seen the importance of finding common ground between employees and employers, and that he was on the Workers' Compensation Board for the past three years.

**Alaska State Board of Public Accountancy**

[4:21:26 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Alaska State Board of Public Accountancy.

[4:21:38 PM](#)

RACHEL HANKS, Appointee, Alaska State Board of Public Accountancy, said that she has served on several nonprofit boards and has been a public accountant for almost 20 years, and worked as an agent with the Internal Revenue Service (IRS) for 10 years. She said that she has had her license for only two years, which means she's current on regulations surrounding licensure. She said that she's especially interested in working with the peer review expansion which is currently under board discussion.

[4:22:39 PM](#)

LANCE JOHNSON, Appointee, Alaska State Board of Public Accountancy, said that he currently works at United Services Automobile Association (USAA) as a writ management professional and is a remote employee based in Alaska. He said that he has been an independent consultant, worked in internal audit in risk management, and holds several professional designations. He said that he wants to serve on the board because he has relied on the work of public accountants over the years and has an interest in ensuring the integrity of the work they do.

[4:24:44 PM](#)

REPRESENTATIVE NELSON asked Mr. Johnson about his remote work.



MR. JOHNSON said that his role with the Institute of Internal Auditors is in a volunteer capacity.

[4:25:41 PM](#)

CO-CHAIR SPOHNHOLZ asked Mr. Johnson whether he resides in Alaska.

MR. JOHNSON replied that he lives in Anchorage.

[4:26:40 PM](#)

DONALD VIEIRA, Appointee, Alaska State Board of Public Accountancy, said that he has served for one year on the board and was in the process of being confirmed when COVID-19 necessitated putting the process on hold. He described his work on the board as covering new applications and said that his experience is building rapidly. He said that he has been a CPA for several years and worked as an auditor before opening his own firm.

[4:27:49 PM](#)

REPRESENTATIVE NELSON noted Mr. Vieira's service in the U.S. Air Force, and asked if he moved to Alaska with the military.

MR. VIEIRA responded that he moved to Fairbanks with the military in 1989 and spent three years there, and returned to Alaska in 2001.

REPRESENTATIVE NELSON asked whether Mr. Vieira moved back to Alaska on his own.

MR. VIEIRA replied yes.

#### **Alaska Workers' Compensation Board**

[4:28:58 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Alaska Workers' Compensation Board.

[4:29:08 PM](#)

MICHAEL DENNIS, Appointee, Alaska Workers' Compensation Board, informed the committee that he is an insurance broker and

partner in a health insurance company in Anchorage. He said that he specializes in workers' compensation and stated that he would like to be on the board in order to bring real life experience.

[4:29:40 PM](#)

CO-CHAIR SPOHNHOLZ asked whether he would be going into an industry or labor seat.

MR. DENNIS answered that he believes it's an industry seat.

[4:30:03 PM](#)

ANTHONY LADD, Appointee, Alaska Workers' Compensation Board, said that he is the business manager for the (indisc.) Local 51 and sits on the Alaska Workforce Investment Board as the chair for the assessment and evaluation committee. He said he's observed two Alaska Workers' Compensation Board meetings since being appointed to the board. He stated his understanding that the Alaska Workers' Compensation Board is a "working board."

[4:30:50 PM](#)

JASON MOTYKA, Appointee, Alaska Workers' Compensation Board, said that he has a business administration degree and started a business in Denali National Park. He now has multiple companies, he said, with the most well-known being the 49th State Brewing Company, which had over 500 employees before the COVID-19 pandemic. He said he has experience with how insurance regulations filter down to the business owners, and that he has represented his own employees going through the process of workers' compensation. He said that a lot of work can be done to lower the cost of workers' compensation insurance for employers, as well as provide needed benefits for employees.

[4:32:21 PM](#)

NANCY SHAW, Appointee, Alaska Workers' Compensation Board, informed the committee that she was initially appointed to the Alaska Workers' Compensation Board in 2017 to finish the term of a board member who resigned. This would be her first three-year term, she said. She told the committee that she was the attorney for the Teamsters Union for 15 years, until 2016, and noted that the union doesn't represent workers in workers' compensation cases. She said that her work with the union consisted of workers' safety protocol, rule compliance, and

designing methods to prevent worker injury. She said that the work done on the Workers' Compensation Board is very familiar to her.

[4:34:17 PM](#)

ROBERT WEEL, Appointee, Alaska Workers' Compensation Board, said that he served as a member at-large on the industry side of the Alaska Workers' Compensation Board and was accepted onto the board during the Murkowski Administration. He said that he tries to keep his focus on both employee and employers as it pertains to injury cases, and stated that he feels good about the work he has done thus far on the board.

[4:35:27 PM](#)

LAKE WILLIAMS, Appointee, Alaska Workers' Compensation Board, said that he has a degree in business administration and completed an apprenticeship as an operating engineer in 1996. He said that he has been on the Alaska Workers' Compensation Board since 2014, and said that the board has a lot of meaning to workers and employees.

### **Board of Chiropractic Examiners**

[4:37:14 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Board of Chiropractic Examiners.

[4:37:24 PM](#)

DR. TIM KANADY, Appointee, Board of Chiropractic Examiners, said that he has been a chiropractor for 38 years and has served in various positions in the chiropractic society, as well as on various state and government panels. He said that he sees his role on the Board of Chiropractic Examiners as serving and protecting the people of Alaska.

[4:38:49 PM](#)

JOHN LLOYD, Appointee, Board of Chiropractic Examiners, said that he has been a chiropractor for 22 years and wants to be on the board to advance chiropractic practice throughout the state. He discussed the importance of keeping options open while being cognizant of public safety, noting that almost every

chiropractor in the state has completed COVID-19 protocols. He discussed using chiropractic medicine to help people with addiction problems, thereby saving money in insurance reimbursements.

### **Board of Massage Therapists**

[4:40:30 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Board of Massage Therapists.

[4:40:38 PM](#)

KRISTIN TRI, Appointee, Board of Massage Therapists, said that she has been a massage therapist since 2015 and was appointed to the Board of Massage Therapists as the COVID-19 pandemic began. She said that she enjoys contributing on the board, as well as helping new massage therapists work "at a more legitimate and professional level."

### **Board of Nursing**

[4:41:21 PM](#)

LENA LAFFERTY, Appointee, Board of Nursing, said that she was initially appointed to the Board of Nursing in 2019 and has come to know the current board members. She stated that the board has made "great strides" in adapting nursing regulations to the COVID-19 pandemic while ensuring safe nursing practice in Alaska. She informed the committee that she is a registered nurse (RN) with Providence Alaska, and has been a nurse for six years after serving as a hospital corpsman in the U.S. Navy. She stated that she is fully committed to the mission of the Board of Nursing, and that she will actively promote and protect the health of the citizens of Alaska through the safe and effective practice of nursing.

[4:42:50 PM](#)

WENDY MONRAD, Appointee, Board of Nursing, said that she was appointed to the Board of Nursing in 2019 to finish the term of another board member and was reappointed in 2020. She said she has been a certified registered nurse anesthetist (CRNA) for 21 years, an RN for 30 years, and is currently employed with the Alaska Native Medical Center. She said that she moved to Alaska

with the U.S. Air Force in 2002 and has served her professional organization at the state and national levels, and has served as the chief CRNA for the past 10 years. She said that, upon confirmation to the board, she will continue to advocate for the people of Alaska.

[4:44:26 PM](#)

CO-CHAIR SPOHNHOLZ asked Ms. Monrad about the most interesting thing she's worked on since being on the board.

MS. MONRAD discussed the emergency regulations needed to respond to COVID-19 such as telehealth.

CO-CHAIR SPOHNHOLZ asked what was interesting about telehealth.

MS. MONRAD answered that telehealth is not a new practice, but it really came to the forefront during the pandemic and is now being used more widely. She said that she, personally, experienced telehealth care through the Veterans Health Administration and said that it was so easy and efficient that it inspired her to work towards appropriate regulation.

[4:46:12 PM](#)

REPRESENTATIVE SCHRAGE asked Ms. Monrad whether she believes Centers for Disease Control and Prevention (CDC) guidelines should be followed, especially as they relate to COVID-19.

MS. MONRAD replied, "Absolutely. I think the CDC guidelines are important." She said that COVID-19 has created so many questions, but CDC guidelines have always been the standard for medical and nursing practice.

REPRESENTATIVE SCHRAGE asked Ms. Monrad whether she has an opinion on whether hydroxychloroquine is an effective treatment for COVID-19.

MS. MONRAD said that she does anesthesia for a living, so she doesn't have an opinion on hydroxychloroquine, and that it hasn't been discussed during meetings of the Board of Nursing.

REPRESENTATIVE SCHRAGE pointed out that he's been alerted to social media attributed to Ms. Monrad promoting using hydroxychloroquine.

MS. MONRAD said that she believes it was "some time ago" and said, "In medicine there are differing opinions about what works and what doesn't work, and what's true science and what's not, and there's a lot of turmoil in the medical community." She said that it's important to recognize that CDC has always been a leader in the practice of medicine.

REPRESENTATIVE SCHRAGE stated his appreciation for her alignment with the CDC.

[4:48:41 PM](#)

MICHAEL WILCHER, Appointee, Board of Nursing, informed the committee that he's been a nurse for almost 26 years, working in departments ranging from psychiatry to orthopedics to urgent care, and currently works for the U.S. Department of Veterans Affairs (VA) at the clinic in Fairbanks. He expressed appreciation for Ms. Monrad's comments about telehealth and said that the VA works hard to make telehealth work efficiently. He said that he offers the board his experience in different aspects of nursing, and he noted that nurses have expressed frustration in finding the needed information on rules and regulations, noting that even his nurse manager has difficulty finding information such as the scope of practice for nurses that work under her. He said that he understands that nurses need to be held accountable for not following regulations and that he would be able to consider any necessary disciplinary actions.

[4:51:28 PM](#)

CO-CHAIR SPOHNHOLZ asked Mr. Wilcher whether he is comfortable adhering to CDC guidelines.

MR. WILCHER replied, "Absolutely."

[4:51:54 PM](#)

CO-CHAIR FIELDS said that Mr. Wilcher's social media posts expressed concern about losing constitutional rights and that he was not worried about COVID-19. Co-Chair Fields said that he remains concerned about the content of Mr. Wilcher's social media posts questioning the science of COVID-19 but appreciates his commitment to simply follow CDC guidance in his role on the Board of Nursing.

MR. WILCHER said that he follows CDC guidelines at work every day, and that his personal opinion has no impact on his job.

[4:53:05 PM](#)

REPRESENTATIVE NELSON asked for a copy of the social media posts.

### **Board of Pharmacy**

[4:53:28 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Board of Pharmacy.

[4:53:35 PM](#)

RICHARD HOLT, Appointee, Board of Pharmacy, said that he has been a licensed pharmacist for over 20 years and was initially confirmed to the Board of Pharmacy in 2016. He said that while on the board he participated in legislative testimony, wrote questions for the multistate jurisprudence exam for pharmacists wishing to become licensed in Alaska, presented continuing education to licensees on behalf of the board, and was active in drafting regulation topics for board review. He said that there are many areas in which he could contribute while serving on the board.

### **Board of Veterinary Examiners**

[4:55:15 PM](#)

CO-CHAIR FIELDS announced that the next order of business would be consideration of the governor's appointees to the Board of Veterinary Examiners.

[4:55:24 PM](#)

DR. DENISE ALBERT, Appointee, Board of Veterinary Examiners, informed the committee that she has served on the Board of Veterinary Examiners for the past year and has been in veterinary practice for 35 years, with 20 years in Alaska. She said that she is semi-retired, doing relief work and consulting, and is able to provide a broad perspective of veterinary work. She expressed that service on the board has a steep learning curve, and the board members have been very supportive.

4:57:46 PM

REPRESENTATIVE MCCARTY asked Dr. Albert whether she sees any specific needs regarding veterinary medicine in the state.

DR. ALBERT replied that the board is working on refining regulations for clarity and directness, as well as addressing the opioid crisis.

REPRESENTATIVE MCCARTY asked Dr. Albert her thoughts on mandatory reporting of animal medication prescriptions.

DR. ALBERT responded that she supports making reporting mandatory and that human medicine is very different from animal medicine, which varies between species.

5:02:15 PM

CO-CHAIR SPOHNHOLZ asked Dr. Albert whether she acknowledges the opioid problem in the state.

DR. ALBERT replied, "Absolutely."

CO-CHAIR SPOHNHOLZ asked whether veterinarians prescribe opioids that can be, and have been, consumed by humans.

DR. ALBERT answered that many of the same drugs are used.

CO-CHAIR SPOHNHOLZ asked Dr. Albert whether she is aware that the prescription drug monitoring program (PDMP) allows a veterinarian to delegate data entry to office personnel.

DR. ALBERT replied that the data entry person has to be a licensed veterinary technician, not regular office personnel.

CO-CHAIR SPOHNHOLZ asked Dr. Albert whether she agrees that veterinary medicines can be abused by adults, and that the work of registering drugs with PDMP can be delegated. She asked whether it's possible that registering drugs with PDMP is not as onerous as she's suggesting.

DR. ALBERT responded that veterinarians have backed off prescribing opioids simply because of the opioid problem. She said that the program itself is problematic, and that using a registered veterinary technician to register the medicines with PDMP is time-consuming.



CO-CHAIR SPOHNHOLZ shared her understanding that PDMP was designed for data entry relating to human patients, and therein lies the challenge of data entry relating to animals. She asked whether it's possible to simply modify PDMP to make it easier for use in veterinary medicine.

DR. ALBERT replied that modification has been worked on for four years, and it's only recently that there's been acknowledgement that the process has been altered. She said PDMP doesn't even allow something as simple as standard measurement variations.

[5:05:59 PM](#)

REPRESENTATIVE KAUFMAN commented that PDMP could be improved.

### **Occupational Safety & Health Review Board**

[5:06:39 PM](#)

CO-CHAIR FIELDS announced that the final order of business would be consideration of the governor's appointees to the Occupational Safety & Health Review Board.

[5:07:08 PM](#)

JOHN STALLONE, Appointee, Occupational Safety & Health Review Board, said that he has been working in occupational safety and health issues for 22 years in the aviation, transportation, and oil and gas industries, and has been involved in over 400 cases. He said that he has been working in compliance in both the public and private sectors, and that he has a wealth of knowledge and is eager to be an active participant in any cases that come before the board.

[5:09:02 PM](#)

REPRESENTATIVE NELSON asked Mr. Stallone about his military service.

MR. STALLONE responded that he was a loadmaster on a C-130 airplane.

[5:10:23 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:10 p.m.